

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MARCOS ANTONIO LOMELI,

Petitioner,

v.

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Respondent.

Case No. CV 17-03286 CAS (AFM)

**ORDER DENYING REQUEST TO
INITIATE “NOTICE OF APPEALS”
AND ADMINISTRATIVELY
CLOSING MATTER**

Petitioner is a detainee incarcerated at the Port Isabel Detention Center in Los
Fresnos, Texas. According to his previous actions in this Court, petitioner is in
federal detention pending his removal from the United States as an alien convicted
of an aggravated felony. *See, e.g., Lomeli v. Gurule*, CV 16-01714 RSWL (AFM).

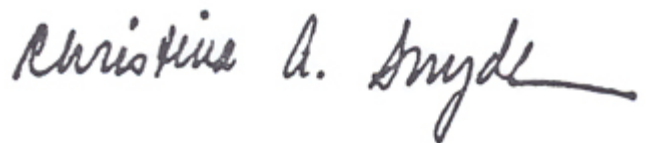
On May 2, 2017, petitioner filed a document entitled “Notice of Appeals of
California Supreme Court Decision.” According to an attachment, the decision
petitioner is seeking to challenge is the California Supreme Court’s denial of a
petition for review on April 12, 2017. However, the basis for the California
Supreme Court’s decision is entirely unclear. Petitioner has not specified what his
claims were in the California Supreme Court, nor has he attached the actual petition
for review or any other supporting documentation. Instead, petitioner states that he

1 is “not sure if [this action] is supposed to be filed as a Petition for Writ of Habeas
2 Corpus” and requests that the Court file it as such “if it’s supposed to be a Writ of
3 Habeas Corpus.”

4 Petitioner’s request must be denied for lack of jurisdiction. There are no
5 adverse parties before the Court, and there is no concrete dispute for this Court to
6 decide. Petitioner has not filed a Petition for Writ of Habeas Corpus that specifies
7 what his claims are. Instead, petitioner appears to be requesting an advisory
8 opinion regarding whether he should file a habeas petition in this Court to raise
9 unspecified claims challenging an unspecified action in the California Supreme
10 Court. Thus, petitioner’s request seeks relief that the Court could not grant without
11 violating the “case or controversy” requirement of Article III, Section 2 of the
12 United States Constitution. *See, e.g., Thomas v. Ochoa*, 2013 WL 610772 (C.D.
13 Cal. Feb. 15, 2013) (“Because petitioner has not yet filed a habeas corpus petition,
14 there is no action or proceeding pending and no case or controversy to be heard.”);
15 *In re Ortiz*, 2010 WL 1170484 (C.D. Cal. Mar. 25, 2010); *Corcoran v. Tilton*, 2008
16 WL 816682 (C.D. Cal. Mar. 25, 2008); *Smith v. State*, 2007 WL 2398822 (N.D.
17 Tex. Aug. 16, 2007); *In re Brockett*, 2006 WL 1329675 (N.D. Cal. May 15, 2006);
18 *Flores v. California*, 2002 WL 1226853 (N.D. Cal. June 4, 2002); *In re Burgess*,
19 2001 WL 603609 (N.D. Cal. May 23, 2001); *Wawak v. Johnson*, 2001 WL 194974,
20 *adopted*, 2001 WL 290526 (N.D. Tex. Feb. 22, 2001).

21 IT THEREFORE IS ORDERED that petitioner’s request to initiate a “Notice
22 of Appeals” is denied and that this matter is administratively closed.

23
24 DATED: May 10, 2017



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26 _____
27 CHRISTINA A. SNYDER
28 UNITED STATES DISTRICT JUDGE